

REAL ESTATE REGULATORY AUTHORITY, BIHAR

Before the Full Bench of Mr Naveen Verma, Chairman,

Mr R.B. Sinha & Mrs Nupur Banerjee, Members

Case No.RERA/CC/654/2019

Vikram Sinha.....Complainant

Vs

M/s DPM Realtors & Marketing Pvt Ltd.....Respondent

Project: Kamal Heritage

Present: For Complainant: In person

For Respondent : None

ORDER

29-7-2021

03.12.2021

The matter was last heard before the full bench on 29-7-2021 and the matter was reserved for orders.

The case of the complainant is that he booked a flat in Block A bearing flat no. 302 on 24.06.2015. The booking was done by paying Rs. 2,00,000/- vide cheque no. 00013 dated 05.07.2015 and Rs. 3,15,625/- vide cheque no. 00014 dated 30.07.2015. Against the booking, two receipts were issued by the respondent company bearing nos. 451 and 452. The complainant further submitted that the Director of the respondent company informed him in 2016 that the project is in progress. However, finding no progress in 2017-2018, the complainant requested the respondent company to refund the amount paid. The complainant submitted that two cheques amounting to Rs. 5,15,625/- (cheque no. 000243 for Rs. 2 lacs and cheque no. 000244 for Rs. 3,15,625/-) were issued by the respondent company but unfortunately, both the cheques were dishonored by the bank. The complainant has therefore prayed for refund of the amount paid with interest @18%.

The complainant has placed on record receipts bearing no. 451 and 452, cheques bearing no. 000243 and 000244 and the return memos.

Perused the record of the case. No reply has been filed by the respondent company. During the hearing conducted on 25.02.2021, Mr. Kumud Singh,

Director of the respondent company had informed the Bench that the previous Director Mr. Pankaj kr. Singh had resigned and after his appointment as Director, no transactions took place in the company. He has also not rebutted the submissions of the complainant.

The Authority notes that after the new Directors took over the company it is their responsibility to take care of all the liabilities of the company as well as its assets. The plea that the erstwhile management was responsible for not handing over the apartment is not tenable under the Real Estate (Regulation and Development) Act, 2016 as they own both the assets and liabilities of the company.

The Authority notes that Section 69 of the Act specifically provides that the obligation of fulfilling the commitments made at the time of booking does not cease even after the resignation of the Directors and officers of the company.

The Bench observes that by not filing their reply the respondent company was able to linger the matter and hence directs each of the present and past Directors of the respondent company to pay a penalty of Rs 10000/- (Ten thousand only) for non-compliance of the direction of the Authority given on 25-02-2021 within a week of this order

The Bench further notes that all the Directors, present and past, are jointly and severally liable to refund the amount to the complainant. It is therefore directed to the respondent company and the Directors, present and past, to refund the amount paid by the complainant i.e. Rs.5,15,625/- with interest at the rate of marginal cost of fund based lending rates (MCLR) of State Bank of India as applicable for three years plus two percent from the date of taking the booking till date of payment within sixty days of issue of this order failing which the Authority will be constrained to proceed further under section 40 of the Real Estate (Regulation & Development) Act, 2016.

Let copy of the order also be served upon the Directors, present and past and also upon the complainant.

Sd/-
Nupur Banerjee
Member

Sd/-
R.B. Sinha
Member

Sd/-
Naveen Verma
Chairman